

Staff Report – Board of Zoning Appeals

Docket #:	BZA2022-008	Hearing Date :	April 11, 2022
Applicant:	William H. & Nancy E. Clark, 3349 Luke's Way, Greenwood, IN 46143		
Owner:	Same as above		
Subject Property Address:	3349 Luke's Way, Greenwood, IN 46143		
Staff Contact:	Ed Ferguson, fergusoe@greenwood.in.gov, 317-887-5231		

Request:

Petition requests two variances for reduction of minimum side and rear yard setback distances to allow the existing deck, constructed in 2021, to remain. Request No. 1 is to reduce the side yard setback from 8 feet to 3.5 feet. Request No. 2 is to reduce the rear yard setback from 20 feet to 8 feet.

Location:

The subject property is addressed 3349 Luke's Way. It is legally described as the east half of Lot No. 16, Shepherd's Grove Section 2 Subdivision. Shepherd's Grove is located on the south side of Smith Valley Road immediately west of the Home Depot store. Lot No. 16 is located along the south boundary of the subdivision.

See attached Exhibit A – Vicinity Map

Indiana Code Reference(s):

- Section 36-7-4-918.5 (Dimensional Variances)

Surrounding Land Uses:

- Existing: RA Residential -- attached single-family dwelling (duplex)
- North: RA Residential – Shepherd's Grove Subdivision
- South: Johnson County – Critchfield Subdivision -- single-family residences
- East: RA Residential – Shepherd's Grove Subdivision
- West: RA Residential – Shepherd's Grove Subdivision

See attached Exhibit B -- Aerial Location Map

Statutory Criteria:

- Indiana Code Section 36-7-4-918.5 Dimensional/Development Standard Variances may be approved only upon a determination in writing that:
 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
 2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner
 3. The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.
- Indiana Code Section 9-21-10-3 No Hazard to Air Navigation (if applicable)

1. The structure is regulated under Indiana Code 8-21-10-3 and the Board of Zoning Appeals has received a copy of the Determination of No Hazard to Air Navigation issued by the Federal Aviation Administration and the Board of Aviation Commissioners has been delivered notice in accordance with Indiana Code 8-21-10-3 not less than sixty days before the proposal is considered.

Greenwood Code References:

Unified Development Ordinance, Section 10-02-15 A. establishes minimum rear yard setback in RA zone at 20 feet, and minimum side yard setback at 8 feet.

PETITIONER'S DETAILED STATEMENTS OF REASONS

REQUEST NO. 1 -- Side Yard Setback Reduction

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because :

The approval of the request to decrease the required side yard setback will not affect the public health, safety, morals, and general welfare of the community because the proposed deviation is relatively small and will not create any adverse impairments. Many homes in shepherd's Grove have similar decks or porches.

See attached Exhibit A – Vicinity Map

See attached Exhibit B – Plot Plan

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because :

The use of the adjacent properties would not be substantially affected because the approval of this petition is consistent with other homes in the neighborhood. The variance requested is relatively small and will be visually insignificant. The value of the adjacent properties will not be adversely affected.

See attached Exhibit B – Plot Plan

See attached Exhibit C – Existing Deck

See attached Exhibit D – Existing Deck

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because :

The Real Estate was annexed into the City of Greenwood in 2013 prior to construction of the existing home in 2020. Shepherd's Grove Section 2 was approved by Johnson county prior to annexation. Under the Unified Development Ordinance, the existing home is situated on and along the setback lines making it impractical for the Petitioner to construct any exterior features such as a porch or deck. The deck is accessed from the interior of the home through a doorway on the side of the home. The required side yard setback as outlined in the Unified Development Ordinance results in practical difficulty for Petitioner.

See attached Exhibit B – Plot Plan

See attached Exhibit C – Existing Deck

See attached Exhibit D – Existing Deck

4. The structure is/is not regulated under Indiana Code 8-21-10-3 for hazard air navigation.

Not applicable.

REQUEST NO. 2 -- Rear Yard Setback Reduction

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because :

The approval of the request to decrease the required rear yard setback will not affect the public health, safety, morals, or general welfare of the community because the proposed deviation is relatively small and will not create any adverse visual impairments. Many homes in Shepherd's Grove have similar decks or porches.

See attached Exhibit A – Vicinity Map

See attached Exhibit B – Plot Plan

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because “

The use of the adjacent properties would not be substantially affected because approval of this petition is consistent with other homes in the neighborhood. The variance requested is relatively small and will be visually insignificant. The value of adjacent properties will not be adversely affected.

See attached Exhibit B – Plot Plan

See attached Exhibit C – Existing Deck

See attached Exhibit D – Existing Deck

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because :

The Real Estate was annexed into the City of Greenwood in 2013 prior to the construction of the existing home in 2020. Shepherd's Grove Section 2 was approved by Johnson County prior to annexation. Under the Unified Development Ordinance, the existing home is situated on and along the setback lines making it impractical for the Petitioner to construct any exterior features such as a porch or deck. The required rear yard setback as outlined in the Unified Development Ordinance results in a practical difficulty for Petitioner.

See attached Exhibit B – Plot Plan

See attached Exhibit C – Existing Deck

See attached Exhibit D – Existing Deck

4. The structure is/is not regulated under Indiana Code 8-21-10-3 for hazard air navigation.

Not applicable.

Background Information :

Issues surrounding construction of this deck have been going on for several months. The deck construction began without a proper building permit. The deck was partially constructed, then work halted. Owner was notified by the HOA to complete the construction or face penalties. The owner submitted building permit application and plans to the City for review. Review of the plans resulted in the determinations that the owner needed to seek approval from the board of Public Works & Safety for encroachment into a drainage and utilities easement, as well as seek dimensional variances from the BZA for side and rear yard setbacks.

The owner submitted the encroachment request to the Board of Public Works & Safety and was approved on February 23, 2022 with the following conditions :

1) As the deck has already been constructed the homeowner is instructed to contact the Greenwood Building Division to apply for a building permit and have inspection of the workmanship of the deck.

2) That the deck be constructed to allow adequate drainage, and if it is determined by the Engineering Division, Stormwater Department, and/or Shepherd's Grove Homeowner's Association that a drainage issue has been created then the property owner will be responsible to correct said drainage issue.

3) Should work within the easement be necessary by any of the utilities or the City, the property owner shall be responsible for removal and replacement of the deck at their sole expense, and the property owner further holds harmless utilities and the City for any damage to said deck.

4) That Indiana 811 is notified prior to installing any encroachment so that all buried utilities can be marked.

The Greenwood Building Division has withheld issuance of the building permit pending determination by the BZA on the two variance requests.

Summary and Proposed Conditions:

Staff has no objections to petitioner's statements of reasons.

Although the events related to the construction of this deck have been out of the ordinary sequence, staff recommends approval of both variance requests with the following conditions :

Owner shall comply with the four conditions (as listed above) established by the Board of Public Works & Safety as part of the approval for encroachment into the easement.

Attachments:

Exhibit A – Vicinity Map

Exhibit B – Plot Plan

Exhibit C – Existing Deck

Exhibit D – Existing Deck



Beacon

Johnson County, IN

Exhibit A

BZA5022-008

Vicinity Map

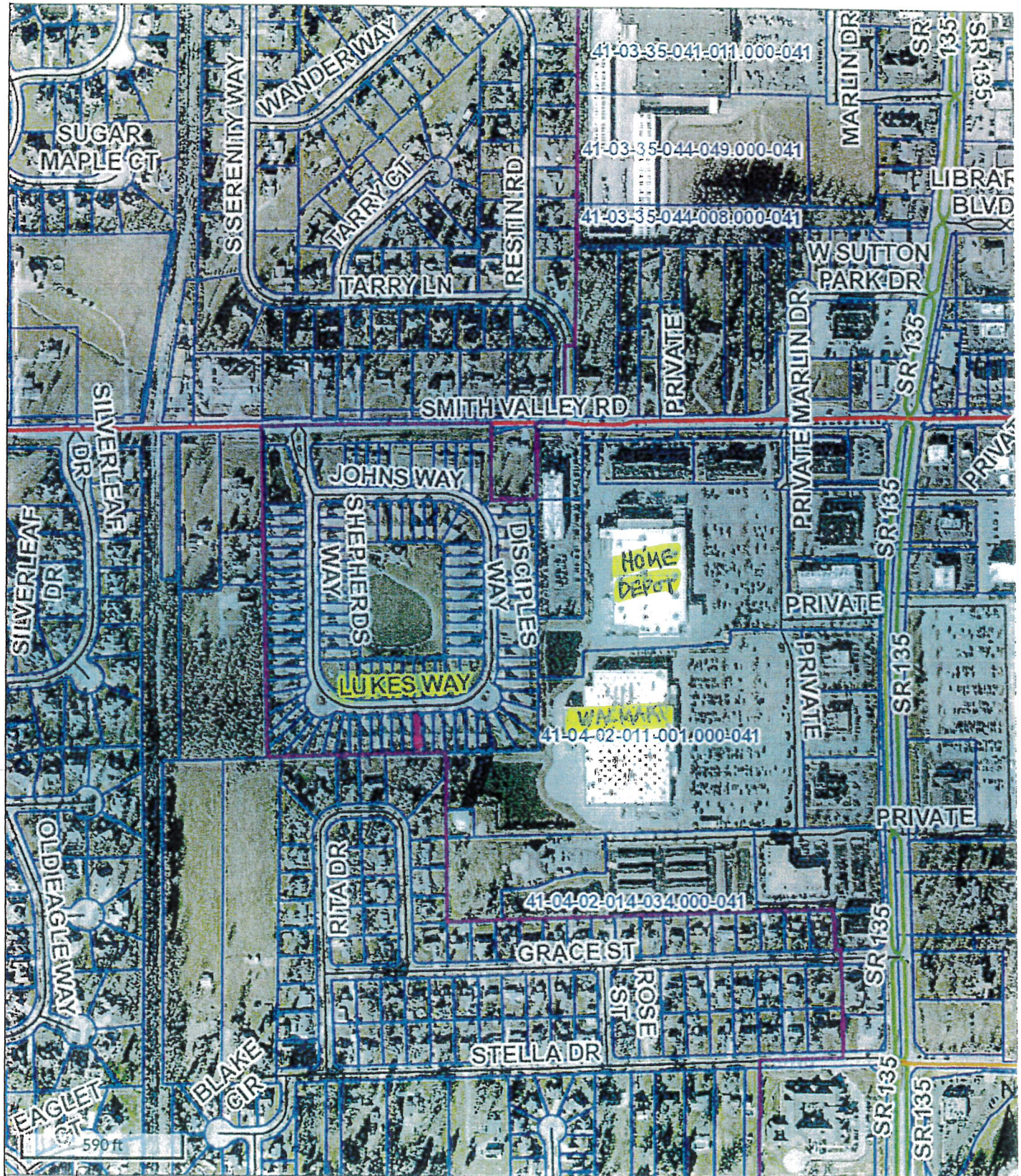
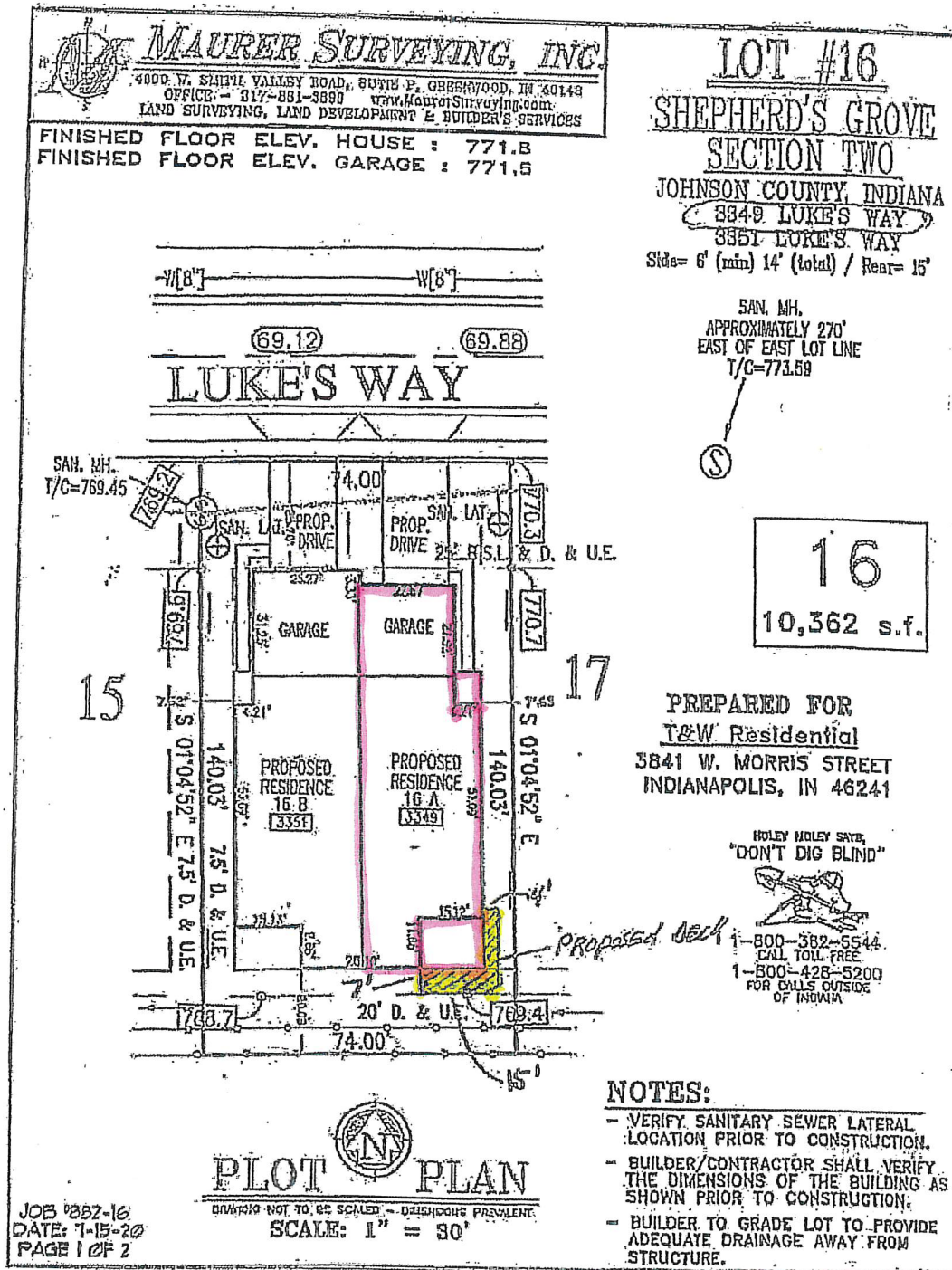


Exhibit B
Plot Plan
BZA 2022-008



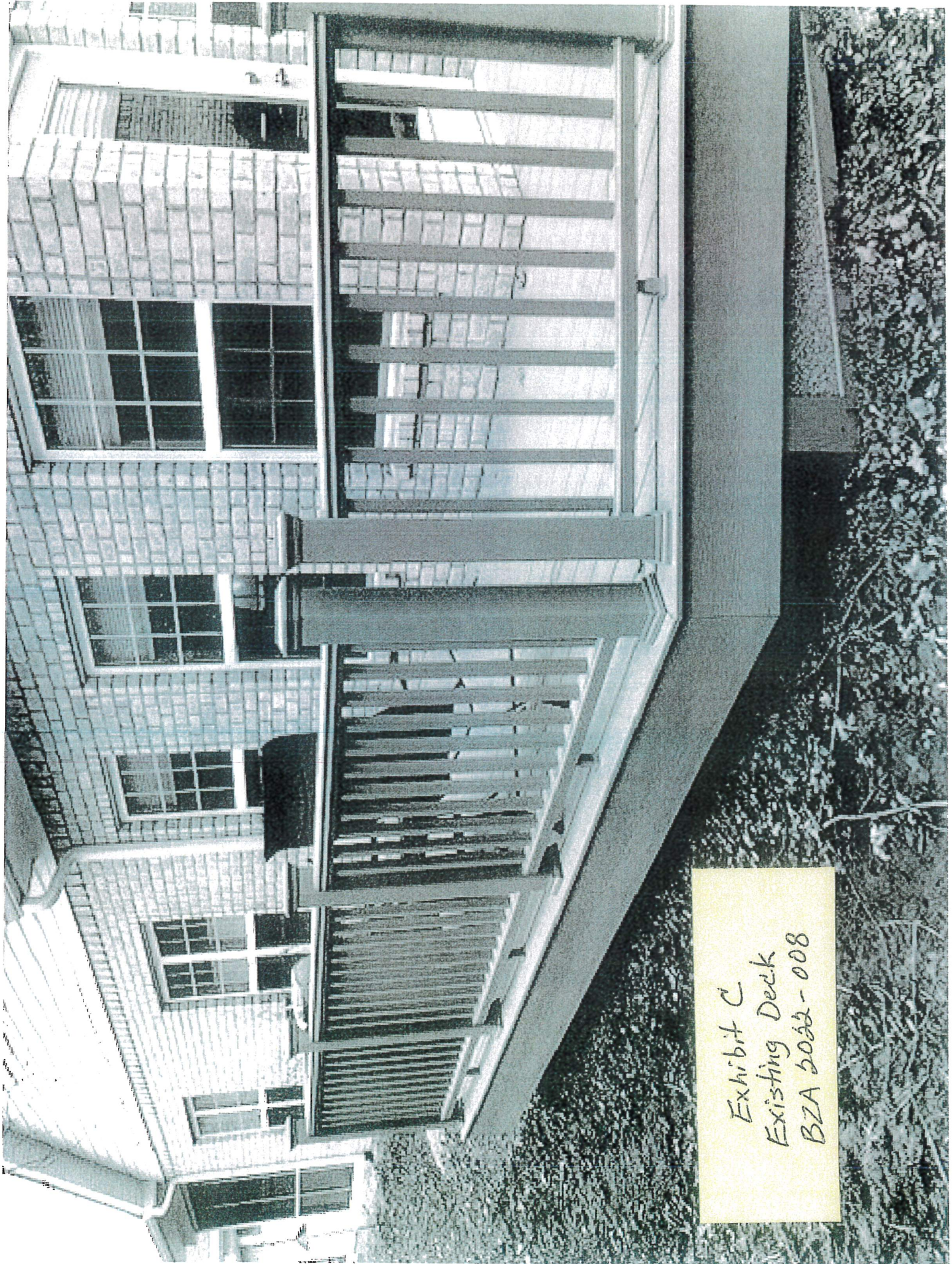


Exhibit C
Existing Deck
BZA 2022-008

Exhibit D
Existing Deck
BZA 6022-008

